IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO.2227 OF 2004

IN

SUIT NO.2302 OF 2004

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Homoeopathic Education Society
and ors. ...Plaintiffs

v/s.

Juhu Jagruti ...Defendant

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Mr.S.S.Shetye i/b B.Amin & Co. for the Plaintiffs.

Mr.M.M. Vashi for the Defendant.

...

CORAM: D.K.DESHMUKH, J.

DATED: 24TH JUNE,2005

P.C.:

1. This Notice of Motion is taken out by the Plaintiff. The Plaintiff has filed this suit for a decree of possession against the Defendant. Both the Plaintiff No.1 and the Defendant are public trust. According to the Plaintiff No.1, in the year 1985 a room admeasuring 200 sq.ft. on the first floor of the building of the Plaintiff No.1 was given on licence gratutiously to the Defendant. According to the Plaintiff, the Plaintiff now needs the premises, therefore, licence has been terminated and the suit filed for decree of possession. The learned Counsel appearing for the Plaintiff submits that the Defendant, which is a public trust, is not actually using the premises for purpose of trust, but the Defendant is using the premises for its personal use and for personal profit. This allegation is denied by the Defendant. In my opinion, considering that the licence was actually created by the Plaintiff itself in favour of the Defendant, it will not be appropriate to appoint the Receiver on the property. The interest of the Plaintiff can be safeguarded by

making an order of temporary injunction restraining the Defendant from parting with possession or alienating the property. So far as allegation that members of the Defendant are using the property for its own purpose is concerned, the allegation is denied and the Defendant through its learned Counsel has undertaken that the Defendant will use the premises for its own purpose and shall not permit anybody to use the same.

2. In this view of the matter, therefore, in my opinion, interest of justice will be served by granting temporary injunction in terms of prayer clause (b). It is accordingly so granted. Notice of Motion disposed of.

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